

Program Legislative Budget

The following table summarizes the legislative budget proposal for the program by year, type of expenditure, and source of funding. Pay plan funding from HB 447 is also included in the table.

Program Legislative Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Leg. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Leg. Budget Fiscal 2007	Total Leg. Budget Fiscal 06-07
FTE	109.71	0.00	6.25	115.96	0.00	8.25	117.96	117.96
Personal Services	5,028,451	345,100	391,191	5,764,742	344,837	715,954	6,089,242	11,853,984
Operating Expenses	2,202,460	(4,619)	59,075	2,256,916	(4,283)	42,231	2,240,408	4,497,324
Equipment	8,759	0	0	8,759	0	0	8,759	17,518
Grants	291,663	0	0	291,663	0	0	291,663	583,326
Benefits & Claims	0	0	0	0	0	0	0	0
Transfers	0	0	0	0	0	0	0	0
Total Costs	\$7,531,333	\$340,481	\$450,266	\$8,322,080	\$340,554	\$758,185	\$8,630,072	\$16,952,152
General Fund	1,910,520	158,728	181,584	2,250,832	158,420	278,190	2,347,130	4,597,962
State/Other Special	255,057	942	17,320	273,319	927	20,285	276,269	549,588
Federal Special	5,365,756	180,811	251,362	5,797,929	181,207	459,710	6,006,673	11,804,602
Total Funds	\$7,531,333	\$340,481	\$450,266	\$8,322,080	\$340,554	\$758,185	\$8,630,072	\$16,952,152

Program Description

The Quality Assurance Division provides services that:

- 1) Protect the safety of clients utilizing Montana's health care, day care, and residential providers through licensure of 2,234 facilities, including 397 facilities that are certified by the division for Medicare and Medicaid participation;
- 2) Detect and investigate abusive or fraudulent practices affecting the Medicaid, TANF, and Food Stamp programs, and initiate recovery efforts;
- 3) Reduce Medicaid costs by identifying other insurers or parties responsible for paying client medical expenses;
- 4) Provide both internal and external independent audits for DPHHS programs;
- 5) Provide independent fair hearings for clients and providers participating in DPHHS programs;
- 6) Monitor and evaluate health maintenance organizations for quality assurance and network adequacy;
- 7) Maintain the Certified Nurse Aide Registry and approve and monitor Nurse Aide Training programs;
- 8) Operate the Certificate of Need (CON) Program; and
- 9) Operate the internal Health Insurance and Privacy Accountability Act (HIPAA) function for DPHHS.

Statutory authority: 42 U.S.C. 1818 and 42 U.S.C. 1919; 45 U.S.C.; Title 50, Chapter 5, parts 1 and 2; Title 50, Chapter 5, part 11; Title 52, Chapter 2, part 7; and Title 53, Chapter 2, section 501, MCA; CFR 21, CFR 49, CFR 10; P.L. 102-359 (10-27-92).

Program Highlights

Quality Assurance Division Major Budget Highlights	
◆	Implementation of the federally required Medicaid Payment Error Rate Program (PERM) results in: <ul style="list-style-type: none"> • Annual appropriation increases of about \$600,000, including funding for 8.00 new FTE • Anticipated reductions in Medicaid service costs in other divisions recorded in the Quality Assurance Division budget that will be distributed to other divisions in the 2007 biennium
◆	Implementation of the Medical Marijuana Act adds 0.25 FTE and about \$30,000 state special revenue authority over the biennium to maintain the

- ♦ registry of persons authorized to use marijuana for medical reasons
- ♦ Pay plan adds about \$600,000 over the biennium, including \$170,000 general fund

Program Narrative

The Quality Assurance Division appropriation grows about \$1.9 million over the 2007 biennium compared to FY 2004 base budget expenditures, almost all in the personal services category. The FY 2006 increase is primarily due to annualization of FY 2005 pay plan raises, and in FY 2007 to a new proposal for increased personal services (8.00 new FTE) and operating funding to implement the Medical Payment Error Rate Program (PERM).

PERM is a federally required program that must be implemented by states beginning October 1, 2005. PERM requires states to evaluate a sample of Medicaid and Children's Health Insurance Program (CHIP) claims with respect to two specific criteria: eligibility for services and the medical necessity for services. The executive anticipates that there will be savings in excess of costs due to the reviews.

The Quality Assurance Division FY 2007 appropriation includes the anticipated benefit cost savings due to PERM, offsetting some of the general fund appropriation increases. The cost savings will accrue in other division budgets, but have been consolidated with the funding to support the PERM in Quality Assurance Division. New proposal DP 190 contains a more detailed discussion of PERM, including how cost savings were calculated.

The LFD commented on the potential impact to the division due to the Medicare Modernization Act passed by Congress in late 2003. The act and its implications for the entire agency are discussed in the agency overview. The Quality Assurance Division could experience increases in grievance and appeal workload due to the act. The legislature added language requiring the department to report to the Legislative Finance Committee so that it can monitor implementation of the act and its impact on state government.

Biennial Comparison

The Quality Assurance Division 2007 biennium appropriation is 10 percent higher in total funds than the 2005 biennium expenditures and appropriation, and includes funding for 8.25 new FTE (Figure 24). General fund increases 11 percent, state special revenue increases 3 percent, and federal funds increase 10 percent. All cost categories except personal services are lower in the 2007 biennium appropriation compared to the 2005 biennium budget. About half of the change is attributable to pay plan increases and about half to PERM. While PERM activities will increase personal services costs, increased accuracy and collection of overpayments is expected to result in benefit savings and therefore reduced general fund costs in Medicaid services programs in the 2007 biennium.

Budget Item/Fund	2005 Biennium	2007 Biennium	Percent of Total	Change	Percent Incr/Decr
FTE	109.71	117.96		8.25	8%
Personal Services	\$10,169,864	\$11,853,984	70%	\$1,684,120	17%
Operating	4,561,165	4,497,324	27%	-63,841	-1%
Equipment	26,257	17,518	0%	-8,739	0%
Grants	645,763	583,326	3%	-62,437	-10%
Total Costs	<u>\$15,403,049</u>	<u>\$16,952,152</u>	100%	<u>\$1,549,103</u>	<u>10%</u>
General Fund	\$4,142,006	\$4,597,962	27%	\$455,956	11%
State Special	535,548.00	549,588.00	3%	14,040.00	3%
Federal Funds	<u>10,725,495</u>	<u>11,804,602</u>	<u>70%</u>	<u>1,079,107</u>	<u>10%</u>
Total Funds	<u>\$15,403,049</u>	<u>\$16,952,152</u>	100%	<u>\$1,549,103</u>	<u>10%</u>

Funding

The following table shows program funding, by source, for the base year and for the 2007 biennium as appropriated by the legislature.

		Program Funding Table Quality Assurance Division					
Program Funding		Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01000	Total General Funds	\$ 1,910,520	25.4%	\$ 2,250,722	27.0%	\$ 2,344,964	27.2%
	01100 General Fund	1,910,520	25.4%	2,250,722	27.0%	2,344,964	27.2%
02000	Total State Special Funds	255,057	3.4%	273,319	3.3%	276,269	3.2%
	02034 Earmarked Alcohol Funds	52,727	0.7%	53,513	0.6%	55,436	0.6%
	02380 02 Indirect Activity Prog 08	30,575	0.4%	32,583	0.4%	33,610	0.4%
	02474 Lien & Estate Collections	171,755	2.3%	171,755	2.1%	171,755	2.0%
	02566 Medical Marijuana	-	-	15,468	0.2%	15,468	0.2%
03000	Total Federal Special Funds	5,365,756	71.2%	5,797,929	69.7%	6,006,673	69.6%
	03096 Discretionary Child Care	433,226	5.8%	458,256	5.5%	481,373	5.6%
	03251 Child Care Admin	136,319	1.8%	143,331	1.7%	149,635	1.7%
	03303 Title 18 Clia	75,880	1.0%	64,903	0.8%	67,168	0.8%
	03335 Fda Mammography Inspections	33,501	0.4%	33,501	0.4%	33,501	0.4%
	03530 6901-Foster Care 93.658	79,891	1.1%	83,875	1.0%	87,117	1.0%
	03580 6901-93.778 - Med Adm 50%	921,904	12.2%	1,088,420	13.1%	1,132,183	13.1%
	03597 03 Indirect Activity Prog 08	1,300,804	17.3%	1,390,744	16.7%	1,451,075	16.8%
	03934 Title 19	489,105	6.5%	704,762	8.5%	730,841	8.5%
	03935 Title 18	1,244,254	16.5%	1,168,664	14.0%	1,210,500	14.0%
	03948 T-19 Obra Nurse Aid	28,460	0.4%	38,795	0.5%	40,167	0.5%
	03960 Rural Hospital Flexibilty Prog	<u>622,412</u>	<u>8.3%</u>	<u>622,678</u>	<u>7.5%</u>	<u>623,113</u>	<u>7.2%</u>
Grand Total		<u>\$ 7,531,333</u>	<u>100.0%</u>	<u>\$ 8,321,970</u>	<u>100.0%</u>	<u>\$ 8,627,906</u>	<u>100.0%</u>

The Quality Assurance Division is funded primarily from federal funds (71 percent of the base budget funding and 70 percent of the 2007 biennium appropriation). General fund supports about one fourth of division expenditures and state special revenue supports remains constant at about 4 percent.

General fund supports the full cost of radiological equipment testing, the state match for Medicaid and Title IV-E (foster care) eligible costs, a portion of child care licensure, and a portion of division administration.

State special revenue includes alcohol taxes allocated to DPHHS, lien and estate recoveries for Medicaid services, and indirect funds. Alcohol taxes fund staff and contracted services for chemical dependency program licensure. Lien and estate funds pay for contracted services to pursue recoveries for the cost of Medicaid funded nursing home services. The contractor is paid approximately 20 percent of collections. Fee reimbursement for the medical marijuana registration is a new source of state special revenue.

The largest source of federal funds is federal Medicaid funds (Title 18 and Med Adm 50%), which support 19 percent of FY 2004 costs rising to 22 percent in FY 2007. Federal reimbursement (indirect cost recovery) for overhead costs that are allocated among federal funding sources depending on staff time spent on each federal program accounts for about 17 percent of total program funding. Medicare (Title 18) funding supports 18 percent of base budget costs, declining slightly to 15 percent each year of the 2007 biennium.

There are nine separate federal funding sources in the Quality Assurance Division. Some federal sources support more than one function. For instance, Medicaid funds support: 1) third party (insurance and private pay) recovery; 2) the surveillance, utilization, and review unit; 3) the nurse aide registry for nursing homes; and 4) the Department of Justice fraud investigation contract. Medicaid and Medicare funds support certification of services such as nursing home and home health services. Medicare CLIA (clinical laboratory improvement amendments) pays for review of some laboratories in order to qualify for federal funding. The rural hospital flexibility grant supports grants and other activities for local hospitals to maintain critical access hospital status. Childcare funding supports licensure of childcare facilities. Title IV-E pays the federal share of costs of licensing community residential facilities. Mammography funds pay for inspections of mammography equipment. Federal indirect funding represents the federal share of allocated

administrative costs, such as those for fair hearings and administrative costs.

Program Reorganization

The internal HIPAA function for DPHHS was moved to Quality Assurance Division from the Health Resources Division in FY 2004. The reorganization involved the transfer of 1.00 FTE.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2006-----						-----Fiscal 2007-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					602,440					604,766
Vacancy Savings					(225,232)					(225,325)
Inflation/Deflation					(5,905)					(5,690)
Fixed Costs					1,286					1,407
Total Statewide Present Law Adjustments					\$372,589					\$375,158
DP 9999 - Statewide FTE Reduction	0.00	(32,108)	0	0	(32,108)	0.00	(34,604)	0	0	(34,604)
Total Other Present Law Adjustments	0.00	(\$32,108)	\$0	\$0	(\$32,108)	0.00	(\$34,604)	\$0	\$0	(\$34,604)
Grand Total All Present Law Adjustments					\$340,481					\$340,554

DP 9999 - Statewide FTE Reduction - The legislature reduced the personal services funding equal to the across-the-board personal services reduction that was made for the 2005 biennium by the 2003 Legislature. General fund was reduced about \$67,000 over the biennium.

New Proposals

New Proposals										
-----Fiscal 2006-----						-----Fiscal 2007-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 190 - Medicaid Payment Error Rate Measurement/OTO										
08	6.00	134,468	0	134,468	268,936	8.00	155,336	0	155,336	310,672
DP 3210 - Implement Medical Marijuana Act										
08	0.25	0	15,468	0	15,468	0.25	0	15,468	0	15,468
DP 6010 - 2007 Biennium Pay Plan - HB 447										
08	0.00	47,116	1,852	116,894	165,862	0.00	122,854	4,817	304,374	432,045
Total	6.25	\$181,584	\$17,320	\$251,362	\$450,266	8.25	\$278,190	\$20,285	\$459,710	\$758,185

DP 190 - Medicaid Payment Error Rate Measurement/OTO - The legislature approved the executive request for about \$0.6 million funds over the biennium to implement the new Medicaid Payment Error Rate Program (PERM), including funds for 8.00 FTE to perform retrospective reviews of Medicaid eligibility and medical necessity for services. This program is anticipated to be self-supporting through the savings generated by the reviews.

In 2002, Congress passed the Improper Payments Information Act. Beginning October 1, 2005, Centers for Medicare and Medicaid Services (CMS) will implement PERM, requiring every state to estimate improper payments in Medicaid and the Children's Health Insurance Program (CHIP). Each state must review annually a sample of Medicaid and CHIP payments, focusing on eligibility and medical necessity for services.

The Program Compliance Bureau of the Quality Assurance Division will administer PERM because the bureau manages similar programs that review Medicaid eligibility and provider payments, and recover payment for Medicaid services from private sources including insurance (third party liability).

If during the review a billing error is found and it is determined that charges have been over paid, the overpayment will be collected from the client or the service provider. (PERM does not provide for correction of under payments.) The collections will be returned to the original payor, which will reduce the general fund expenditures in the Medicaid program. If the error is determined to be an eligibility issue resulting from an agency error, no collection will be made. However, if the error is an eligibility issue resulting from a client error, the Quality Assurance Division will try to collect the overpayment.

The legislature accepted the executive estimate of overpayment recoveries. DPHHS projected a recovery rate of 0.15 percent of total Medicaid expenditures. DPHHS estimated cost savings due to PERM of \$0.3 million for FY 2006 and \$1 million for FY 2007, based on total Medicaid expenditures of \$715 million for FY 2006 and \$751 million for FY 2007. FY 2007 savings are significantly higher than FY 2006 savings, because the program will not begin until October 1, 2005 and DPHHS estimated a six-month lag in collections.

The legislature appropriated about \$300,000 general fund and a like amount of federal funds over the biennium to support the program. The legislature also increased general fund revenue estimates by about \$190,000 to account for recovery of overpayments in the Medicaid program. The appropriation was approved as a one-time-only expenditure and restricted so that it could not be used for other purposes.

DP 3210 - Implement Medical Marijuana Act - The legislature added \$31,000 state special revenue over the biennium to fund administration of the Medical Marijuana Act, implemented through voter initiative in November 2004 (I-148). The funds support 0.25 FTE and operating expenses to administer the program. The state special revenue is derived from a \$200 annual registration fee for persons authorized to use marijuana to help treat their medical conditions through the recommendation of a physician. The statute requires that the program be self-supporting and the division establishes the fee based on workload and number of persons requesting services. Legislators expressed concern that the fee be no greater than that required to administer the program and were assured by DPHHS staff that the program and rates would be administered with that goal in mind. Language was added to HB 2 to require the department to report to the Legislative Finance Committee and members of the Health and Human Services Joint Appropriation Subcommittee on implementation of the act and the amount of the fee.

DP 6010 - 2007 Biennium Pay Plan - HB 447 - The legislature passed a pay plan in HB 447 that provides an additional 3.5 percent (or \$1,005, whichever is greater) in FY 2006 and an additional 4.0 percent (or \$1,188, whichever is greater) in FY 2007, as well as \$46 per month in insurance contributions in calendar 2006 and an additional \$51 per month in calendar 2007. These amounts represent the allocation of costs to this program to fund the pay plan.

Language

The legislature approved the following language for inclusion in HB2:

The Governor has indicated his intent to line-item veto the language illustrated in *italic*. However, his authority to do so is questioned and may be challenged through legislation.

"Funds in Quality Assurance Division support the fair hearings processes administered by the department. The department shall report to the members of the 2005 Legislative Joint Appropriations Subcommittee on Health and Human Services by July 1, 2005, and every 6 months thereafter on the status of grievances and appeals with respect to meeting timelines established in applicable federal and state rules and statutes.

Quality Assurance Division includes \$15,468 each year of the biennium for implementation of the Medical Marijuana Act. *The department shall report to the Legislative Finance Committee by September 1, 2005, and every 6 months thereafter regarding implementation of the Act, including review of the fee amount charged to implement the Act."*